

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Telecommunications Carriers Eligible for	)	WC Docket No. 09-197
Universal Service Support	)	
	)	
Connect America Fund	)	WC Docket No. 10-90

**ORDER**

**Adopted: November 16, 2020**

**Released: November 16, 2020**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, the Wireline Competition Bureau (Bureau) designates Siyeh Communications (SiyCom) as an eligible telecommunications carrier (ETC) in the Montana Browning Exchange (Browning Exchange).<sup>1</sup> In making this ETC designation, the Bureau finds that SiyCom meets the eligibility requirements to receive universal service support, as set forth in section 214(e)(6) of the Communications Act of 1934, as amended (Act), and related Federal Communications Commission (Commission) rules.<sup>2</sup>

**II. BACKGROUND**

**A. Service of the Browning Exchange**

2. SiyCom, a Montana non-profit corporation, is wholly owned and chartered by Siyeh Corporation, a federally chartered for-profit corporation of the Blackfeet Tribe of the Blackfeet Indian Reservation (Blackfeet Tribe).<sup>3</sup> SiyCom is authorized by the Blackfeet Tribe to provide communication and information services within the Blackfeet Indian Reservation (Reservation) as a matter of public convenience and necessity.<sup>4</sup> The Browning Exchange is mostly comprised of Tribal lands within the Reservation, with a de minimis portion extending outside the Reservation boundary on lands ceded by the

<sup>1</sup> See Petition of Siyeh Communications for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(6) of the Telecommunications Act of 1996, WC Docket 09-197 (filed Mar. 24, 2020) (ETC Petition). In addition to seeking an ETC designation, SiyCom seeks waiver of section 54.305 and 54.311(d) of the Commission's rules to the extent that they may affect SiyCom's eligibility for universal service support. ETC Petition at 23-24; 47 CFR §§ 54.305; 54.311(d). Because these waiver requests do not pertain to SiyCom's eligibility for ETC designation and, instead, pertain to support determinations, the Bureau addresses them in a separate public notice. *Application Granted for the Acquisition of Certain Assets of 3 Rivers Telephone Cooperative, Inc. by Siyeh Communications; Joint Petition Granted for Waiver of the Definition of Study Area with Respect to the Transfer of the Browning, Montana Exchange*, WC Docket. Nos. 20-85, 10-90; CC Docket No. 96-45, Public Notice, DA 20-1347 at 4, n.24 (WCB Nov. 13, 2020) (*3 Rivers SiyCom Section 214 Public Notice*).

<sup>2</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202.

<sup>3</sup> See ETC Petition at 2 (citing 25 U.S.C. § 5124).

<sup>4</sup> *Id.* at 2, Exhibit 4 (Certificate of Public Convenience and Necessity, Blackfeet Resolution No. 264-2018, Sept. 19, 2018).

Blackfeet Tribe to the United States.<sup>5</sup> SiyCom states that “all customers and facilities of the Browning Exchange are exclusively within the Blackfeet Reservation.”<sup>6</sup>

3. 3 Rivers, an incumbent rate-of-return carrier, receives universal service support to serve a study area that included the Browning Exchange. In the 3 Rivers SiyCom Section 214 Public Notice, however, the Bureau conditionally authorized 3 Rivers to transfer substantially all of the assets it held in the Browning Exchange in Montana to SiyCom.<sup>7</sup> The Bureau also waived the Commission’s study area boundary freeze to permit 3 Rivers to remove the Browning Exchange from the boundaries of its existing Study Area No. 482255 and transfer it to a new SiyCom study area.<sup>8</sup> As a result, SiyCom will become a successor or assign of 3 Rivers pursuant to section 251(h)(1)(B)(ii) of the Act.<sup>9</sup>

4. SiyCom filed its ETC Petition to become eligible to receive universal service support for the provision of qualifying telecommunications and broadband services in the Browning Exchange, conditioned upon approval of its Transfer Application and Study Area Waiver Petition.<sup>10</sup> The Montana Public Service Commission (Montana PSC) granted 3 Rivers’ request for a conditional relinquishment of its ETC status for the Browning Exchange, conditioned upon Commission grant of the Transfer Application, the Study Area Waiver Petition, and the ETC Petition.<sup>11</sup> Accordingly, upon grant of this ETC designation and consummation of the transaction, which SiyCom and 3 Rivers expect to occur at the end of 2020, SiyCom is eligible to receive universal service support as the incumbent local exchange carrier (LEC) serving the Browning Exchange, including federal high-cost and Lifeline support.<sup>12</sup>

#### **B. Federal Universal Service Lifeline Support**

5. The Lifeline – or low-income – program provides support to reimburse providers for offering supported services at discounted prices to qualifying low-income households, with more support

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<sup>5</sup> *Id.* at 5, Exhibit 5 (map depicting boundaries of both the Browning Exchange and Blackfeet Reservation); *id.* at 3, 8 (explaining that certain lands exclusively occupied by the Blackfeet Tribe were ceded to the federal government by agreement, including the areas of the Browning Exchange not within Reservation boundaries); *Id.* at Exhibit 8 (Agreement of 1888, ratified by the Act approved May 1, 1888, 25 Stat. 113).

<sup>6</sup> *Id.* at 5.

<sup>7</sup> 3 Rivers SiyCom Section 214 Public Notice at 3-6.

<sup>8</sup> *Id.* at 6-8.

<sup>9</sup> 47 U.S.C. § 251(h)(1)(B)(ii) (defining incumbent LEC).

<sup>10</sup> ETC Petition at 2, 6.

<sup>11</sup> Order Granting Conditional Relinquishment of ETC Status and Study Area Waiver, Three Rivers Communications Conditional Notice of Relinquishment of Designation of Eligible Telecommunications Carrier and Request for Study Area Waiver, Docket No. 2019.12.104, Order No. 7719 (Mar. 3, 2020) (Montana PSC Order).

<sup>12</sup> In the 3 Rivers SiyCom Section 214 Public Notice, the Bureau took steps to prevent the proposed transaction from adversely impacting the high-cost Universal Service Fund by conditioning the transaction approval on the applicants’ agreement to cap the high-cost universal service support received by 3 Rivers and by setting a fixed amount of Alternative Connect America Cost Allocation Model II (ACAM II) support for SiyCom. 3 Rivers SiyCom Section 214 Public Notice at 5-6; Letter from David Gibson, CEO, 3 Rivers, and Mike Sheard, General Manager, SiyCom, to Kris A. Monteith, WCB Bureau Chief, FCC, CC Docket No. 96-45, WC Docket Nos. 09-197, 10-90, 05-337, 20-85 (filed Nov. 5, 2020). In a separate item, the Bureau is reviewing a petition filed by 3 Rivers and SiyCom seeking waiver of the Commission’s rules to the extent necessary to apportion 3 Rivers’ current Connect America Fund Intercarrier Compensation (CAF ICC) Base Period Revenues (BPR) between 3 Rivers and SiyCom, to initialize SiyCom’s tariffed rates at 3 Rivers’ current rates, and to immediately join the National Exchange Carrier Association (NECA). See Letter to Kris Monteith, Chief, WCB, from Gregory J. Vogt, Counsel for Siyeh, and Michael Bennet, Counsel for 3 Rivers, WC Docket No. 20-85 (filed Oct. 26, 2020).

available for households on Tribal lands.<sup>13</sup> Eligible services include voice and broadband Internet access service meeting certain requirements.<sup>14</sup> In a given geographic area, a carrier may be designated as an ETC and become eligible to receive funding from both the high-cost and low-income components of the Universal Service Fund (USF).<sup>15</sup> All ETCs must offer Lifeline-supported services throughout their designated service areas.<sup>16</sup>

### C. Requirements for FCC ETC Designation

6. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”<sup>17</sup> Congress gives primary authority for ETC designations to state commissions.<sup>18</sup> The FCC has authority only when “a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”<sup>19</sup> The petitioning carrier must demonstrate that the FCC has jurisdiction and may do so by submitting an “affirmative statement from the state commission or a court of competent jurisdiction that the carrier is not subject to the state commission’s jurisdiction.”<sup>20</sup> To the extent that the petition covers Tribal lands, and the petitioner has not taken any action at the state level to initiate ETC proceedings, the petitioner may make an affirmative showing of FCC jurisdiction under relevant law.<sup>21</sup> The Commission has delegated authority to the Bureau to consider appropriate ETC designation requests.<sup>22</sup>

7. A petition for ETC designation by the FCC must include: (1) a certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to section 254(c) of the Act; (2) a certification that the petitioner offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;<sup>23</sup> (3) a description of how the petitioner will advertise the availability of the supported services

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<sup>13</sup> See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket Nos. 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6663, para. 14 (2012).

<sup>14</sup> *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 3972, paras. 30-32 (2016) (*Lifeline Modernization Order*).

<sup>15</sup> 47 CFR § 54.201(a)(1); *id.* § 54.101(d); *Lifeline Modernization Order*, 31 FCC Rcd at 3974, 4074-75, paras. 35, 311-12 (requiring all high-cost support recipients to meet Lifeline obligations in all areas where they deploy a network pursuant to a broadband service obligation and are commercially offering qualifying service).

<sup>16</sup> See 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.101(a) (as amended by the *Lifeline Modernization Order*); see also *Lifeline Modernization Order*, 31 FCC Rcd at 3972, 4071-72, paras. 30-32, 297, 299-301.

<sup>17</sup> 47 U.S.C. § 254(e).

<sup>18</sup> *Id.* § 214(e)(2).

<sup>19</sup> *Id.* § 214(e)(6).

<sup>20</sup> See *Federal-State Joint Board on Universal Service et al.*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12267, para. 120 (2000) (*2000 Tribal Order*); 47 U.S.C. § 214(e)(6).

<sup>21</sup> *2000 Tribal Order*, 15 FCC Rcd at 12214, 12268-69, paras. 7, 126; see also *id.* at 12218-19, paras. 17-18 (defining Tribal lands to include “reservation” and “near reservation,” as those terms are defined under the Bureau of Indian Affairs’s regulations); 25 CFR § 20.1(r), (v).

<sup>22</sup> See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>23</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(1).

and the charges therefor using media of general distribution;<sup>24</sup> (4) a detailed description of the geographic service area for which the petitioner requests to be designated as an ETC;<sup>25</sup> and (5) a certification that neither the petitioner, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.<sup>26</sup>

8. In addition, petitioners must demonstrate their ability to meet certain service standards. Under section 54.202(a) of the Commission's rules, a petitioner seeking an ETC designation must: (1) certify that it will comply with the service requirements applicable to the support that it receives; (2) submit a five-year service plan; (3) demonstrate its ability to remain functional in emergency situations; and (4) demonstrate its ability to satisfy applicable consumer protection and service quality standards.<sup>27</sup>

9. Section 214(e)(6) of the Act and section 54.202(b) of the Commission's rules require the Commission to find that an ETC designation serves the public interest.<sup>28</sup> While Congress did not identify specific criteria to be used in making such a determination, the public interest benefits of a particular ETC designation must be analyzed in a manner that is consistent with the purposes of the Act itself, including the principles for the preservation and advancement of universal service.<sup>29</sup> To this end, the Commission adopted a cost-benefit test designed to assess whether designation would further universal service policies, placing the burden of proof on the petitioning carriers to demonstrate that the advantages of service, such as increased consumer choice, would outweigh the disadvantages, such as poor coverage.<sup>30</sup>

#### **D. Petition for ETC Designation**

10. SiyCom seeks an ETC designation to become eligible to receive high-cost and Lifeline support associated with its provision of supported broadband and telecommunications services within the Browning Exchange. The Bureau released a public notice soliciting comments on SiyCom's ETC Petition.<sup>31</sup> Alexicon Telecommunications Consulting and the National Tribal Telecommunications Association filed comments fully supporting SiyCom's ETC Petition.<sup>32</sup>

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<sup>24</sup> 47 U.S.C. § 214(e)(1); 47 CFR § 54.201(d)(2).

<sup>25</sup> An ETC's "service area" is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a).

<sup>26</sup> 21 U.S.C. § 862; 47 CFR § 1.2002(a)–(b).

<sup>27</sup> See 47 CFR § 54.202(a).

<sup>28</sup> 47 U.S.C. § 214(e)(6); 47 CFR § 54.202(b).

<sup>29</sup> 47 U.S.C. § 254(b).

<sup>30</sup> See *ETC Designation Report and Order*, 20 FCC Rcd at 6388-89, paras. 40-42. As part of this determination, the Commission historically conducted a cream-skimming analysis to ensure that potential designees could not selectively choose to serve high-density portions of a rural telephone company's study area while receiving support, under legacy identical support rules, based on the average costs of the rural telephone company in providing service throughout the study area. *Id.* at 6393-95, paras. 48-53. As the Commission has explained however, such an analysis is irrelevant where, as here, the designee will be the only carrier receiving support within the service area and must serve high-cost areas that the marketplace would not otherwise serve absent subsidy. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6008, para. 165 (2016).

<sup>31</sup> *Wireline Competition Bureau Seeks Comment on Siyeh Communications Petition for Designation as an Eligible Telecommunications Carrier et al.*, CC Docket No. 96-45, WC Docket No. 09-197, WC Docket No. 10-90, WC Docket No. 05-337, 35 FCC Rcd 3026 (2020).

<sup>32</sup> Comments of Alexicon Telecommunications Consulting, CC Docket No. 96-45 et al. (filed May 5, 2020); Reply Comments of the National Tribal Telecommunications Association, CC Docket No. 09-197 et al. (filed May 20, 2020).

### III. DISCUSSION

11. We find that SiyCom satisfies the Commission's requirements for ETC designation. We therefore designate SiyCom as an ETC in the Browning Exchange. SiyCom must meet all requirements and conditions for receiving high-cost support, as well as Lifeline requirements, and other service obligations attendant to its ETC designation, as specified in the Act and the Commission's rules.<sup>33</sup>

#### A. Commission Authority to Designate SiyCom as an ETC

12. SiyCom demonstrates that the Commission has the requisite authority to designate it as an ETC pursuant to section 214(e)(6) of the Act. SiyCom is wholly owned by Siyeh Corporation, a federally-chartered corporation owned by the Blackfeet Nation, whose mission is to promote economic development, produce revenue and employment opportunities, and promote self-determination by members of the Blackfeet Nation.<sup>34</sup> The Blackfeet Tribal Business Council has issued a Certificate of Public Convenience and Necessity for SiyCom to provide telecommunications and information services to the Reservation.<sup>35</sup> We thus find that as a Tribally-owned and operated entity operating on the Reservation, SiyCom is governed by the laws, regulations, and authority of the Blackfeet Nation.<sup>36</sup> Accordingly, we find that for areas within the Browning Exchange and within Reservation boundaries, SiyCom is not subject to the Montana PSC's regulatory authority to designate ETCs. The Montana PSC concurs; SiyCom has submitted an affirmative statement from the Montana PSC declining to assert jurisdiction to designate SiyCom as an ETC in the Browning Exchange, including the small contiguous area outside of the Reservation boundaries.<sup>37</sup> Accordingly, we find that the Bureau, acting under the Commission's delegation of authority, may designate SiyCom as an ETC for purposes of becoming eligible to receive universal service funding.

#### B. Eligibility Requirements

13. *Offering the Services Supported by the Universal Service Support Mechanisms.* We find that SiyCom establishes through the required certifications and related filings that it will offer the services supported by the federal universal service support mechanisms.<sup>38</sup>

14. *Offering the Supported Services Using a Carrier's Own Facilities.* SiyCom certifies that it is a facilities-based provider of broadband and voice services and will provide supported services through its own existing network infrastructure and the facilities to be acquired from 3 Rivers.<sup>39</sup>

15. *Advertising Supported Services.* SiyCom commits to advertising the availability of the supported services and related charges using media of general distribution.<sup>40</sup> We emphasize that, as part

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<sup>33</sup> 47 CFR § 54.202(a)(1)(i); *id.* § 54.101(d); *Lifeline Modernization Order*, 31 FCC Rcd at 3974, 4074-75, paras. 35, 311-12.

<sup>34</sup> ETC Petition at 9; *id.* at Exhibit 1 (Charter for SiyCom), Exhibit 2 (Charter for Siyeh Corporation).

<sup>35</sup> ETC Petition at 9; Exhibit 4.

<sup>36</sup> *Id.* at 5-12.

<sup>37</sup> ETC Petition at Exhibit 6 (Montana PSC Order, with attached letter to Dennis Fitzpatrick, CEO, Siyeh Corporation indicating that the Montana PSC does not object to the exercise of FCC jurisdiction over the ETC designation of SiyCom as an ETC in the Browning Exchange).

<sup>38</sup> *Id.* at 3-4, 12-13, Exhibit 11 (Certification of General Manager); 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1).

<sup>39</sup> ETC Petition at 9-10, 18; Exhibit 11; 47 U.S.C. § 214(e)(1)(A); 47 CFR § 54.201(d)(1).

<sup>40</sup> ETC Petition at 19; 47 U.S.C. § 214(e)(1)(B); 47 CFR § 54.201(d)(2).

of this commitment, an ETC must advertise the availability of its services and charges in a manner reasonably designed to reach Lifeline-eligible consumers.<sup>41</sup>

16. *Detailed Description of Geographic Service Area.* SiyCom provides a detailed map overlaying the Browning Exchange and the Reservation.<sup>42</sup>

17. *Anti-Drug Abuse Act Certification.* SiyCom submits a certification that satisfies the requirements of the Anti-Drug Abuse Act of 1988, as codified in sections 1.2001-1.2003 of the Commission's rules.<sup>43</sup>

18. *Compliance with the Service Requirements Applicable to Rate-of-Return Carriers Receiving Model-Based Support.* We find that SiyCom establishes through the required certifications and related filings that it will comply with service requirements applicable to any high-cost support it receives.<sup>44</sup> SiyCom also commits to meeting the service standards and deployment obligations associated with the receipt of universal service support.<sup>45</sup>

19. *Compliance with Service Requirements Applicable to Lifeline Services.* SiyCom commits to offering Lifeline discounts to qualifying low-income consumers, consistent with the Commission's rules, in all high-cost areas where it is authorized to receive support.<sup>46</sup> We emphasize that all ETCs receiving Lifeline support must report certain information to the Commission, USAC, and the local regulatory authority, pursuant to section 54.422 of the Commission's rules.<sup>47</sup>

20. *Submission of a Five-Year Plan.* As explained in its five-year build out plan, SiyCom will use universal service support and customer revenues to upgrade existing copper-based broadband facilities to high-capacity fiber and other available advanced technologies, initially prioritizing "more rural portions of its service area where copper loops are the longest and where bandwidth constraints are the greatest," but eventually providing advanced services throughout the Browning Exchange.<sup>48</sup> Through such efforts, SiyCom intends to provide "a full spectrum of both basic and advanced voice services, as well as broadband services throughout the exchange."<sup>49</sup> SiyCom also states that "it expects to meet or exceed ACAM II rule deployment milestones in a timely fashion."<sup>50</sup>

21. *Ability to Remain Functional in Emergency Situations.* SiyCom states that it can remain functional in emergency situations. Specifically, SiyCom explains that it has sufficient back-up power to

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<sup>41</sup> 47 CFR § 54.405.

<sup>42</sup> ETC Petition at Exhibit 5.

<sup>43</sup> *Id.* at 21; 47 CFR § 1.2002.

<sup>44</sup> ETC Petition at 13-14, Exhibit 11; 47 CFR §§ 54.101(d), 54.202(a)(1)(i).

<sup>45</sup> ETC Petition at 16; 3 *Rivers SiyCom Section 214 Public Notice* at 4 n.24 (waiving SiyCom's obligation to deploy 25/3 Mbps broadband service to 40% of its locations by the end of year 4 (2022), thus providing SiyCom with an additional year before it needs to meet A-CAM II buildout milestones, i.e., SiyCom's first deployment milestone requirement is to deploy 25/3 Mbps broadband service to 50% of its locations by the end of year 5 (2023)).

<sup>46</sup> *Id.* at 4 (committing to implementing Enhanced Lifeline and Tribal Linkup programs).

<sup>47</sup> 47 CFR § 54.422; *see also id.* § 54.410.

<sup>48</sup> ETC Petition at 15-16.

<sup>49</sup> *Id.* at 15.

<sup>50</sup> SiyCom Responses to October 19 Follow-up Questions, CC Docket Nos. 96-45, 09-197, 10-90, 05-337, 20-85 (Oct. 28, 2020).

ensure functionality in the designated service area without an external power source, can re-route traffic around damaged facilities, and can manage traffic spikes resulting from emergency situations.<sup>51</sup>

22. *Compliance with Consumer Protection and Service Quality Standards.* SiyCom is subject to strict consumer protection standards that include customer rights and a complaint resolution process.<sup>52</sup> Furthermore, SiyCom states, under its Articles of Incorporation, it must follow specific service principles, including non-discriminatory service at reasonable and consistent rates.<sup>53</sup> We emphasize that as an ETC, SiyCom must abide by all applicable state and federal consumer protection and service quality standards, including specific obligations under the Communications Act and its implementing rules.

### C. Public Interest Analysis

23. We conclude that it is consistent with the public interest, convenience, and necessity to designate SiyCom as an ETC for the Browning Exchange. In reaching this decision, we find that SiyCom has satisfied its burden of proof in establishing that its universal service offerings will provide numerous benefits to rural consumers. Granting SiyCom's ETC Petition to serve the Browning Exchange helps ensure that unserved or underserved Tribal members living on or near the Reservation have access to advanced telecommunications and broadband services.<sup>54</sup> In addition, SiyCom commits to offering advanced services throughout the Browning Exchange at competitive prices and to investing in significant new telecommunications middle and last mile fiber deployment.<sup>55</sup> Because SiyCom is Tribally-controlled and operated, its ETC designation will promote Tribal self-determination and economic and cultural development on the Reservation, consistent with the Commission long-standing policies.<sup>56</sup> Given SiyCom's commitments and associated representations in its ETC Petition, we conclude that granting this ETC designations will help ensure increased consumer choice, affordability, and improved quality of service on the Reservation.

24. Accordingly, based on the information, representations, and certifications in its ETC Petition, we find that SiyCom has met all applicable conditions and prerequisites for ETC designation and that granting this petition serves the public interest.

### B. Regulatory Oversight

25. Under section 254(e) of the Act, ETCs must use universal service support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."<sup>57</sup> Under section 214(e) of the Act, ETCs must provide supported services throughout the designated service

<sup>51</sup> ETC Petition at 16-17; 47 CFR § 54.202(a)(2).

<sup>52</sup> ETC Petition at 18, Exhibit 12 (Standards of Service).

<sup>53</sup> *Id.* at 18, Exhibit 2.

<sup>54</sup> *Id.* at 19 (emphasizing that "only approximately 46 percent of homes in the Browning Exchange are passed with broadband facilities capable of delivering 25/3 Mbps broadband service," and explaining plans to make such broadband service available to all customers within the Browning Exchange); *see also* Letter from Gregory J. Vogt, Counsel for SiyCom, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket Nos. 09-197, 10-90, 05-337, 20-85, at Attach. (SiyCom Responses to October 19 Follow-Up Questions) at 1 (filed Oct. 28, 2020).

<sup>55</sup> ETC Petition at 20.

<sup>56</sup> *Id.* at 19-20; *Telecommunications Carriers Eligible for Universal Service Support Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier et al.*, Memorandum Opinion and Order and Order on Reconsideration, 26 FCC Rcd 9160, 9160-61, para. 2 (2011) (explaining that "Tribal governments play a vital role in serving the needs and interests of their local communities, often in remote, low-income, and underserved regions of the country," and describing the Commission's "longstanding policy of promoting Tribal self-sufficiency and economic development and of helping ensure that Tribes have adequate access to communications").

<sup>57</sup> 47 U.S.C. § 254(e).

area.<sup>58</sup> When authorized to receive high-cost support, SiyCom must file an annual certification that all federal high-cost support received was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.<sup>59</sup> The Commission conditions future high-cost support on the filing of such certification.<sup>60</sup>

26. An ETC receiving Lifeline support uses that support as intended when it reduces the price of its telecommunications services by the amount of the support for the eligible consumer.<sup>61</sup> In addition, the ETC must file annual reports that include, among other things, a certification of compliance with applicable minimum service standards, service quality standards, and consumer protection rules.<sup>62</sup>

27. We find that reliance on SiyCom's commitments to meet these and other regulatory requirements, as well as representations and commitments made in its ETC Petition, is reasonable and consistent with the public interest and the Act. We conclude that fulfillment of these additional reporting requirements will further the Commission's goal of ensuring that SiyCom satisfies its obligation under section 214(e) of the Act to provide supported services throughout its designated service area.

28. The Commission may initiate an inquiry on its own motion to examine any ETC's records and documentation to ensure that the universal service support the ETC receives is being used "only for the provision, maintenance, and upgrading of facilities and services" in the areas in which it is designated as an ETC.<sup>63</sup> ETCs must provide such records and documentation to the Commission and USAC upon request.<sup>64</sup> If an ETC fails to fulfill the requirements of the Act, the Commission's rules, and the terms of this Order after it begins receiving universal service support, the Commission has authority to revoke the petitioner's ETC designation.<sup>65</sup> The Commission also may assess forfeitures for violations of Commission rules and orders.<sup>66</sup>

#### IV. ORDERING CLAUSES

29. Accordingly, IT IS ORDERED, pursuant to the authority contained in section 214(e)(6) of the Communications Act of 1934, as amended, 47 U.S.C. § 214(e)(6), and the authority delegated in

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<sup>58</sup> *Id.* § 214(e).

<sup>59</sup> 47 CFR § 54.314(b). SiyCom seeks waiver of the October 1, 2020 deadline for filing an annual certification if its designation were to fall "between this filing cycle." ETC Petition at 23-24. Because SiyCom is designated after this deadline, this waiver request is moot. SiyCom's first annual certification must occur on October 1, 2021, and must certify that "all federal high-cost support provided to such carrier was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." *Id.* § 54.314(a),(d).

<sup>60</sup> 47 CFR § 54.314(b).

<sup>61</sup> See *Petition of TracFone Wireless, Inc. for Forbearance from 47 U.S.C. § 214(e)(1)(A) and 47 C.F.R. § 54.201(i)*, CC Docket No. 96-45, Order, 20 FCC Rcd 15095, 15105-06, para. 26 (2005).

<sup>62</sup> 47 CFR § 54.422(b)(3); see also *id.* §§ 54.416, 54.422 (requiring an officer of the company to certify that the ETC has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services and that will comply with all federal Lifeline certification procedures).

<sup>63</sup> 47 U.S.C. §§ 220, 403.

<sup>64</sup> 47 CFR § 54.417.

<sup>65</sup> *Id.* § 54.320(c); *Federal-State Joint Board on Universal Service; Western Wireless Corporation Petition for Preemption of an Order of the South Dakota Public Utilities Commission*, CC Docket No. 96-45, Declaratory Ruling, 15 FCC Rcd 15168, 15174, para. 15 (2000).

<sup>66</sup> See 47 U.S.C. § 503(b).



sections 0.91 and 0.291 of the Commission's rules, 47 CFR §§ 0.91, 0.291, Siyeh Communications IS DESIGNATED an Eligible Telecommunications Carrier in the Browning Exchange.

30. IT IS FURTHER ORDERED that the Petition for Waiver of the section 54.314(b) deadline in 2020 IS DISMISSED as MOOT.

31. IT IS FURTHER ORDERED that a copy of this Order SHALL BE TRANSMITTED to the Montana Public Services Commission, the Blackfeet Nation, the Universal Service Administrative Company, and to 3 Rivers Telephone Cooperative, Inc.

32. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 CFR § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith  
Chief  
Wireline Competition Bureau